HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT APPEAL No. 191 OF 2007

Between:

M/s Sri Sai Pavan Mines & Minerals,
A partnership firm, rep. By its Managing Partner,
M. Murali

... Appellant

And

Govt. of A.P. rep. by its Secretary,
Industries & Commerce Department,
Hyderabad & others

... Respondents

:: J U D G M E N T ::

Counsel for the appellant : Shri A. Venkateswarlu

Counsel for respondent Nos.1 to 3 : Government Pleader for Mines and Geology

February 27, 2007

Per G.S. Singhvi, CJ

This appeal is directed against order dated 08.12.2006 passed by the learned Single Judge, whereby he dismissed Writ Petition No.25477 of 2006 filed by the appellant against the proposed diversion of Telugu Ganga Project through land comprised in Survey No.529 of Molakalapundla Village, Sydapuram Mandal, Nellore District.

In the writ petition filed by him, the appellant has prayed as under:

> " It is therefore prayed that this Hon'ble Court may be pleased to issue a Writ of Mandamus, or any other

> appropriate writ, order or direction, declaring the action of the respondents in proposing to have canal of Telugu Ganga Project through the land in Sy.No.529 of Molakalapundla Village, Sydapuram Mandal, Nellore District which is under lease in favour of petitioner, instead of having the canal through Sy.No. 532 of reserve forest area in spite of representation dt.11.11.2006 made by the petitioner as being arbitrary, illegal and violative of Articles 14 and 19 of the Constitution of India and consequently direct the respondents 4 and 5 to forthwith consider the representation of the petitioner dt.11.11.2006 and take the canal of Telugu Ganga Project through the reserve forest land in Sy.No.532 and pass such other order or orders as may deem fit and proper in the circumstances of the case."

The learned Single Judge opined that the apprehension expressed by the writ petitioner (the appellant herein) is not well founded. Accordingly, he dismissed the writ petition as premature.

Learned counsel for the appellant argued that even though the respondents have not initiated steps for acquisition of land by issuing notification under Section 4(1) of the Land Acquisition Act, 1894, his client had invoked jurisdiction of this Court under Article 226 of the Constitution of India under a bona fide apprehension that its right to operate the mines in Survey No.529 would be adversely affected because the respondents-officers had undertaken survey and inspection of the site.

In our opinion, survey of the area by the officers of the government cannot lead to an inference that the appellant's land will be used for diversion of Telugu Ganga Project and the Court cannot entertain writ petitions on such unfounded apprehensions and assumptions.

With the above observation, the appeal is dismissed. However, it is made clear that the appellant shall be free to avail appropriate legal remedy including by filing fresh petition if and as and when any

action is taken by the respondents which may adversely affect its right to operate the mines.

As a sequel to dismissal of the main appeal, WAMP No.355 of 2007 filed by the appellant for issue of an interim direction to respondent Nos. 4 and 5 to consider his representation dated 11.11.2006 and take the canal of Telugu Ganga Project through reserve forest land in Survey No.532 of Molakalapundla Village, Sydapuram Mandal, Nellore District, instead of through the land comprised in Survey No.529 is disposed of as infructuous.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

February 27, 2007
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